

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ROBERT D. KLINE, J.D.,

Plaintiff,

v.

Case No. \_\_\_\_\_

POLARIS INDUSTRIES, INC.,

Defendant.

**NOTICE OF REMOVAL**

To: Clerk of Courts, United States District Court for the Middle District of Pennsylvania

Defendant, Polaris Industries, Inc. ("Polaris"), by and through its counsel, Clem C. Trischler and Pietragallo Gordon Alfano Bosick & Raspanti, LLP, files this Notice of Removal. Pursuant to 28 U.S.C. §§ 1331 and 1446, Polaris submits that original subject matter jurisdiction exists in the United States District Court for the Middle District of Pennsylvania. In further support of the removal of this action, Polaris submits the following:

**INTRODUCTION**

1. Plaintiff Robert D. Kline, J.D. ("Plaintiff"), commenced this civil action with the filing of a Praecipe for Summons on October 26, 2017 in the Court of Common Pleas of Cumberland County, Pennsylvania, Case No. CV-2017-09573. Polaris received this Praecipe via certified mail on October 31, 2017.

2. Thereafter, on or around December 26, 2017, Polaris received copy of the Complaint which Plaintiff filed in the Court of Common Pleas of Cumberland County, Pennsylvania, Case No. CV-2017-09573.

3. Plaintiff's Complaint seeks damages for Polaris' alleged violation of 47 U.S.C. § 227, *et seq.*, also known as the Telephone Consumer Protection Act ("TCPA").

### **JURISDICTION AND VENUE**

4. This Court has original jurisdiction over this action under 28 U.S.C. § 1331, which vests district courts with “jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331; *see also Mims v. Arrow Fin. Servs., LLC*, 565 U.S. 368 (2012) (finding that federal courts have federal question jurisdiction under 28 U.S.C. § 1331 to hear private TCPA claims).

5. Venue is proper pursuant to 28 U.S.C. § 1441(a) because the action was originally filed in the Court of Common Pleas of Cumberland County, Pennsylvania which lies within the United States District Court for the Middle District of Pennsylvania. 28 U.S.C. § 118(b).

6. Pursuant to 28 U.S.C. § 1441(a), a civil action brought in a state court over which a federal district court has original jurisdiction may be removed to the district court embodying the place where such action is pending. Because Plaintiff’s Complaint was originally filed in the Court of Common Pleas of Cumberland County, Pennsylvania, this District Court has removal jurisdiction over the matter.

### **TIMING AND OTHER REQUIREMENTS**

7. Polaris first received a copy of the Complaint on December 26, 2017. Thus, removal is timely under 28 U.S.C. § 1446(b)(1) because Polaris filed this Notice “within thirty days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based . . .”

8. In accordance with 28 U.S.C. § 1446(a), “copy of all process, pleadings, and orders served upon” Polaris is attached hereto as Exhibit “A.” The state court has issued no orders.

9. A copy of this Notice of Removal is being served on Plaintiff, who is proceeding *pro se*, and filed with the Clerk of the Court of Common Pleas of Cumberland County, Pennsylvania, in accordance with 28 U.S.C. § 1446(d).

10. Polaris will file its Disclosure Statement in accordance with Federal Rule of Civil Procedure 7.1.

WHEREFORE, Polaris Industries, Inc., by its counsel, hereby removes the subject action from the Court of Common Pleas of Cumberland County, Pennsylvania, to the United States District Court for the Middle District of Pennsylvania. If any question arises as to the propriety of the removal of this action, Polaris respectfully requests the opportunity to present a brief and oral argument in support of its position that this case is removable.

Dated: January 12, 2018

Respectfully submitted,

**PIETRAGALLO GORDON ALFANO  
BOSICK & RASPANTI, LLP**

By: /s/ James F. Marrion  
Clem C. Trischler (PA52957)  
James F. Marrion (PA85181)  
One Oxford Centre, 38<sup>th</sup> Floor  
Pittsburgh, PA 15219  
Phone: (412) 263-2000  
Facsimile: (412) 263-2001  
*Counsel for Polaris Industries, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that I served a copy of the foregoing Notice of Removal upon the following by U.S. Mail, postage prepaid, on this, the 12<sup>th</sup> day of January, 2018, in Pittsburgh, PA:

Robert D. Kline, J.D.  
2256 Fairview Road  
McClure, PA 17841  
*Pro se* Plaintiff

/s/ James F. Marrion  
Clem C. Trischler  
James F. Marrion  
PIETRAGALLO GORDON ALFANO BOSICK &  
RASPANTI, LLP  
One Oxford Centre, 38<sup>th</sup> Floor  
Pittsburgh, PA 15219  
Phone: (412) 263-2000  
Facsimile: (412) 263-2001  
*Counsel for Polaris Industries, Inc.*